

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Return Date & Time:
February 1, 2018 @ 11:00AM

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IN RE:

Chapter 13
Case No. 18-10061-cgm

Secundina P. Valerio,
Debtor.
-----X

**NOTICE OF MOTION TO
CONTINUE AUTOMATIC STAY**

SIRS:

PLEASE TAKE NOTICE, upon the annexed Motion, the Debtor will move before Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, at the Courthouse located at One Bowling Green, New York, New York 10004-1408 on the 1st day of February, 2018 at 11:00 o'clock in the forenoon or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Sec.362 (c) (3) (A) (B) and (C) continuing the automatic stay in this case as to all creditors, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be served and filed at least three (3) days prior to the return date thereof.

Dated: Poughkeepsie, New York
January 16, 2018

Yours, etc.

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Secundina P. Valerio,

Case No. 18-10061-cgm
Chapter 13

MOTION

Debtor.

-----X
TO: Honorable Cecelia G. Morris, Chief U.S. Bankruptcy Judge

1. This case was filed on January 8, 2018. The Debtor has filed one previous Chapter 13 case that was pending within the one year immediately prior to the filing of this petition. The previous case was filed on September 25, 2017 and thereafter dismissed on December 18, 2017 for failure to file bankruptcy schedules required by § 521 (a)(1).
2. The Debtor filed the prior case pro se, not being able to afford the attorney fees for representation at the time.
3. The Debtor although she didn't file schedules, not having the knowledge to manoeuvre through a chapter 13 did act in good faith otherwise.
4. She paid the full filing fees in installments.
5. She attended the creditors meeting and requested an adjournment, not having been able to file schedules.
6. There has been a substantial change in circumstances since the filing and dismissal of the previous case.

7. The Debtor now has counsel, having retained me to file this case.
 8. The Debtor income has increased since the filing and dismissal of the previous case, allowing her to retain counsel and pursue a feasible case.
 9. The Debtor has secured a tenant that pays \$1500.00 monthly in rental income to her, which she did not have during the previous case.
 10. The Debtor has two sons ages 23 and 25 who reside with her and each have agreed to contribute to the household which amount to a minimum of \$800.00 monthly in additional income.
 11. The Debtor earns income from taxi driving.
 12. The Debtor and her husband have reorganized their approach to this occupation.
 13. They now share one vehicle and have extended the hours they drive, the husband driving the night and the debtor driving the day thereby increasing the profitability of their driving.
 14. Debtor is acting in good faith in the filing of this petition as she fully intends to comply with all Chapter 13 requirements and there has been a change of circumstances since the dismissal of her previous case.
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WHEREFORE, it is respectfully requested that the Motion to continue the Automatic Stay be granted and that such other and further relief be entered as the Court deems just and proper.

Dated: Poughkeepsie, New York
January 16, 2018

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

MEMORANDUM OF LAW ON BEHALF OF THE DEBTOR

PRELIMINARY STATEMENT

This Memorandum of Law is respectfully submitted in support of the application of the Debtor for an Order continuing the automatic stay.

STATEMENT OF FACTS

The statement of facts in support of the Debtor's application is contained in the Affidavit of the Debtor attached hereto.

ARGUMENT

The court in this case should extend the automatic stay pursuant to 11 U.S.C. Section 362(c)(3)(A)(B) and(C) as this case has been filed in good faith.

The Debtor's previous case was dismissed pursuant to 11 U.S.C. §521(i)(1) for failure to file bankruptcy schedules. While Section 362 (c)(3) (C)(i) (II) (cc) states that a case is presumptively filed not in good faith if the Debtor failed to comply with the terms of the confirmed plan, it also states that the presumption of not filing in good faith may be rebutted by clear and convincing evidence to the contrary.

It is respectfully submitted that the facts and circumstances as stated in the motion are sufficient to rebut this presumption of bad faith. Also the facts and circumstances support a finding that there has been a change in circumstances since the dismissal of the prior case giving reason to conclude that if this court extends the automatic stay, the Debtor will be able to confirm and fully perform the confirmed plan.

CONCLUSION

For the forgoing reasons, it is respectfully requested that the Court Order that the automatic stay be continued as to all creditors.

Respectfully submitted,

/S/ Julius A. Rivera, Jr., Esq.

Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, NY 12601
(845) 452-1422

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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Secundina P. Valerio,

Debtor.
-----X

ORDER EXTENDING AUTOMATIC STAY

Upon the MOTION of the Debtor before the undersigned on February 1, 2018, and no one appearing in opposition to the relief requested by the Debtor and Counsel for the Debtor and the Debtor having appeared in support of the relief requested, it is

ORDERED that the Automatic Stay in this case as to all creditors is continued to and including , 2018.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Secundina P. Valerio,

Case No. 18-10061-cgm
Chapter 13

Debtor.
-----X

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Notice of Motion, Motion to continue the Automatic Stay with exhibits and proposed order was furnished to the following parties on the 16th day of January, 2018 by United States first-class mail and/or by electronic notification:

Jeffrey L. Sapir, Esq.
Chapter 13 Trustee
399 Knollwood Road, Suite 102
White Plains, New York 10603

Office Of The United States Trustee
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014

Secundina P. Valerio
2558 Morgan Avenue
Bronx, NY 10469

All Creditors on the attached list

Dated: Poughkeepsie, New York
January 16, 2018

/s/Julius A. Rivera, Jr., Esq.
Julius A. Rivera, Jr., Esq.
Attorney for Debtor
309 Mill Street
Poughkeepsie, New York 12601
(845) 452-1422

Label Matrix for local noticing
0208-1
Case 18-10061-cgm
Southern District of New York
Manhattan
Mon Jan 15 11:29:49 EST 2018

SYNCHRONY BANK/PC RICHARDS & SONS
ATTN: BANKRUPTCY
PO BOX 965060
ORLANDO, FL 32896-5060

Jeffrey L. Sapir-13
As Chapter 13 and 12 Trustee
399 Knollwood Road
Suite 102
White Plains, NY 10603-1936

End of Label Matrix
Mailable recipients 8
Bypassed recipients 0
Total 8

Manhattan Division
One Bowling Green
New York, NY 10004-1415

United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014-9449

Julius A. Rivera Jr.
309 Mill Street
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NATIONSTAR MORTGAGE LLC
ATTN: BANKRUPTCY
8950 CYPRESS WATERS BLVD
COPPELL, TX 75019-4620

VERIZON
VERIZON WIRELESS BANKRUPTCY ADMINISTRATI
500 TECNOLGY DR STE 500
WELDON SPRINGS, MO 63304-2225

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